



# UNITED STATES PATENT AND TRADEMARK OFFICE

EC

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,142	08/08/2001	Stephen Neal Hardy	11610.00027	3063

22908 7590 07/17/2003

BANNER & WITCOFF, LTD.  
TEN SOUTH WACKER DRIVE  
SUITE 3000  
CHICAGO, IL 60606

EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
----------	--------------

3727

DATE MAILED: 07/17/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/925,142

Applicant(s)

HARDY, STEPHEN NEAL

Examiner

Robin A. Hylton

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-18 and 20-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 3727

## DETAILED ACTION

### *Double Patenting*

1. Applicant is advised that should claim 2 be found allowable, claim 9 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### *Claim Rejections - 35 USC § 112*

2. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The structure of the enclosure is not clearly set forth in claim 22. Where are the brackets located with respect to the tubes and other portions of the enclosure?

### *Claim Rejections - 35 USC § 102*

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4,6,9-12,14-16,25, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Grange (US 1,995,059).

Art Unit: 3727

The outer segment is 1a on the right side of figure 2, and the upper edge of the outer segment holds the lid in an open configuration.

6. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Elizondo et al. (US 5,245,916).

See figure 5 showing a support (i.e., hinge pin) within a channel.

7. Claims 17,18,20,21, 23, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Huang (US 6,131,760).

The supports **261** are received in channels **161** on the base.

To the degree understandable, claim 22 is anticipated by Huang.

8. Claims 1-4,6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Katz (US 3,229,846).

The lock **70** is on an outer lid segment and the locking opening (created by the pin) is in the bottom lid segment (since it is below the outer segment).

9. Claims 1-4,6,9-12,15,16,25, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Robles (US 2,080,786).

Regarding claim 3, wherein the enclosure "may be" collapsed, the structure of Robles "may be collapsed" as well.

Regarding claim 4, the upper edge 4 is the means for securing the enclosure in the closed position (see col. 1, lines 46-49).

Regarding claim 6, the trunnion is the means for securing the enclosure in the open position.

Regarding claim 10, element 40 is considered a protruding lip.

Regarding claim 16, the disclosed structure meets the claim when the lid segments are in the closed position.

***Claim Rejections - 35 USC § 103***

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huang.

Huang teaches the claimed enclosure except for the support tubes having a rectangular cross-section.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the tubes of a rectangular shape since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. Doing so provides for a more deliberate rotation of the outer lid segment.

11. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grange in view of Shoup (US 3,917,923).

Grange teaches the claimed enclosure except for a cotter pin at the axle connecting rotatably connecting the segments.

Shoup teaches it is known to substitute a cotter pin for a bolt arrangement.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a cotter pin to connect the lid segments as taught by Shoup since the use of a cotter pin and a bolt arrangement are known as structural equivalents. Doing so is an obvious matter of design choice for a smooth outer enclosure.

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robles in view of White (US 1,747,205).

Robles teaches the claimed enclosure except for a lock bracket on the bas and a lock opening in the bottom lid segment.

White teaches a lock arrangement on an enclosure comprising a lock bracket on the bas and a lock opening in the bottom lid segment.

Art Unit: 3727

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a lock bracket on the bas and a lock opening in the bottom lid segment to the enclosure of Robles. Doing so ensures the secure closing of the enclosure and prevents unauthorized access to the enclosure contents.

13. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robles.

To the degree the claim is understandable in view of the rejection under 35 USC 112 above, Robles teaches the claimed enclosure except for a scallop. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply a scallop to the enclosure of Robles to add a more pleasing aesthetic design.

***Allowable Subject Matter***

14. Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

15. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

It is noted that claim 8 was rejected in paragraph 6 of the previous Office action, but was erroneously indicated as allowable in paragraph 14 due to a typographical error. The examiner apologizes for any inconvenience.

***Conclusion***

16. This Office action is made non-final.

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various enclosures are cited for their disclosures.

Art Unit: 3727

18. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9302 or (703) 872-9303 for after final amendments. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

19. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-\_\_\_\_ on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature\_\_\_\_\_

Date\_\_\_\_\_


20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH  
July 12, 2003

  
Robin A. Hylton  
Primary Examiner  
GAU 3727